



MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; System of Records

AGENCY: U.S. Merit Systems Protection Board.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974 (Privacy Act), the U.S. Merit Systems Protection Board (MSPB or Board) proposes to establish a new MSPB system of records titled “Surveys for Special Studies of the Civil Service.” This system of records contains information that MSPB collects, maintains, and uses in order to develop and administer the Merit Principles Survey (MPS) and other surveys for special studies of the civil service and to evaluate and distribute the results of such surveys. This system of records will be included in MSPB’s inventory of record systems.

DATES: Please submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This new system is effective upon publication in today’s *Federal Register*, with the exception of the routine uses, which are effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit written comments to the Office of the Clerk of the Board by any of the following methods: by email to privacy@mspb.gov or by mail to Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. All comments must reference “MSPB – 2, Surveys for Special Studies of the Civil Service.” Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to MSPB’s website (www.mspb.gov) and will include any personal information you provide, such as your name, address, phone number, email address, or any other personally identifying information in your comment or materials. Therefore, any submissions will be made

public and without change.

FOR FURTHER INFORMATION CONTACT: Fon Muttamara at (202) 653-7200.

You may submit written questions to the Office of the Clerk of the Board by any of the following methods: by email to privacy@mspb.gov or by mail to Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. Please include “MSPB – 2, Surveys for Special Studies of the Civil Service” with your question(s).

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act, 5 U.S.C. 552a, MSPB proposes to establish a new system of records titled “Surveys for Special Studies of the Civil Service.” This system of records is being established in order to develop and administer the Merit Principles Survey (MPS), along with other surveys for special studies of the civil service and to evaluate and distribute the results of such surveys. This system of records contains information that MSPB collects, maintains, and uses regarding individuals who are potential or actual survey respondents.

MSPB was instituted under the Civil Service Reform Act of 1978 and administers surveys under its general authorities to conduct studies and research on matters relevant to the MSPs and Prohibited Personnel Practices (PPPs). The statute (5 U.S.C. 1204(a)(3)) also authorizes a “special studies” function, under which MSPB has the authority to conduct studies when it deems appropriate on the topics it deems appropriate, so long as the studies relate to “the civil service and to other merit systems in the executive branch[.]” This function enables MSPB to independently conduct research and present the subsequent findings to the President, Congress, and other Federal human capital stakeholders so that they can have access to information to aid in their decision-making processes.

MSPB established the MPS in support of its statutory responsibility to assess the health of Federal merit systems. MSPB has conducted the MPS since 1983 as part of its

statutory oversight responsibilities (5 U.S.C. 1204(a)(3) and 5 U.S.C. 1204(e)(3)). The survey tracks a variety of Federal workforce issues related to the MSPs and PPPs, with results reported to the President and Congress and shared with Federal policy-makers and decision-makers. This survey differs from the Federal Employee Viewpoint Survey administered by the Office of Personnel Management (OPM) in several respects, such as: a focus on MSPs and PPPs and human resources policy and practice; administration every few years instead of annually; and a smaller sample, and use of non-recurring questions to delve into discrete topics of interest. MSPB conducted Government-wide MPS administrations as part of its program of survey research in 1983, 1986, 1989, 1992, 1996, 2000, 2005, 2007, 2010, and 2016. In addition, MSPB has administered and collected data from other surveys, such as the 2007 Career Advancement Survey, 2009 MSPB Federal Telework Survey, and the 2011 Fair and Open Competition Survey. The MPS and other surveys conducted by MSPB are tools that measure Federal employees' perceptions of whether, and to what extent, MSPs are being protected and PPPs are being prevented in Federal agencies. MSPB surveys ask participants to share their attitudes, behaviors, and thoughts on topic areas related to the MSPs, PPPs, and other human capital management topics relevant to the MSPs. Demographic questions are also included to evaluate differences among subgroups in the way responses were distributed.

In order to administer an MSPB survey, information about Federal employees is routinely collected from the OPM Enterprise Human Resource Integration (EHRI) system and other Federal Government entities associated with the administration of the surveys. This data is used to (1) identify current Federal employees, (2) determine survey eligibility, (3) collect contact information where necessary and available, (4) perform statistical weighting procedures using select demographic information, and (5) support research and reporting functions. All survey administrations, data cleaning, and statistical weighting

procedures are executed by MSPB. At the end of the survey cycle, selected summary results and a technical report may be published, and a public version of the data file is released.

While individual employee participation in our surveys is voluntary, agency participation in our surveys is mandatory for agencies selected by MSPB (5 U.S.C. 1204(e)(3)).

The records concerning the potential and actual survey respondents will be maintained in this system of records, pursuant to the Privacy Act, which will be included in MSPB's inventory. The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a "system of records." A system of records is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of MSPB by complying with MSPB Privacy Act regulations at 5 CFR part 1205, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice. The Privacy Act requires each agency to publish in the *Federal Register* a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The new Surveys for Special Studies of the Civil Service System of Records Notice is published in its entirety below. In accordance with the Privacy Act, 5 U.S.C. 552a(r), and OMB Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act" (Dec. 2016), MSPB has submitted a report of a new system of records to the Office of Management and Budget and Congress.

Jennifer Everling,

Acting Clerk of the Board,

U.S. Merit Systems Protection Board.

SYSTEM NAME AND NUMBER:

MSPB – 2, Surveys for Special Studies of the Civil Service.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Records are maintained by the Office of Policy and Evaluation, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419 and the third-party vendor(s) providing the survey administration system.

SYSTEM MANAGER(S): Program Manager, Office of Policy and Evaluation, U.S. Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419, studies@MSPB.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. 1204(a)(3), 1204(e)(3), 1206.

PURPOSE(S) OF THE SYSTEM: The purpose of the system or records is to permit MSPB to administer, collect, maintain, and evaluate the results of the special studies surveys. These surveys include sets of questions posed to selected Federal employees throughout executive branch agencies; to measure Federal employees' perceptions of whether, and to what extent, conditions that characterize successful merit principles protection are in place in their agencies; to obtain general indicators of how well the Federal Government is 1) protecting merit, 2) preventing PPPs, and 3) managing the Federal workforce consistent with merit in order to provide senior managers with critical information needed to make their agency work better; to write reports of findings to the President and to Congress and other oversight entities, as appropriate; to determine individuals' eligibility for the survey; and to conduct statistical weighting procedures. In addition, information in this system of records is used to produce a de-identified, publicly

available data file that contains survey responses, select demographics, and limited agency organizational information; as well as to produce reports of summarized survey results for participating agencies, their subcomponents, and others.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Current and former Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Pay (e.g., Grade, Pay Plan).
2. Work Location (e.g., Agency, Personnel Office Identifier).
3. The Position (e.g., Occupational Series, Supervisory Status).
4. Performance (e.g., Rating Level, Rating Pattern).
5. EHRI Demographics (e.g., Sex, Veteran's Status).
6. Personal Identifiers, whether provided by the individual or as part of the administration of the survey (e.g., Employee Name and Email Address, randomly assigned identifier for survey administration).
7. Voluntary Survey Question Responses (e.g., Responses to Survey Questions).
8. Personnel Actions History (e.g., Service Computation Date for Retirement Purposes, Hiring Authority).

RECORD SOURCE CATEGORIES:

Individual survey participant records are obtained from OPM's EHRI system, which contains general personnel records from the OPM/GOVT-1 General Personnel Records system of records, from the individual Federal agencies that participate in MSPB's surveys, and from the individuals who voluntarily complete these surveys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside MSPB as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- a. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys; or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:
 - (1) MSPB, or any component thereof;
 - (2) Any employee or former employee of MSPB in his or her official capacity;
 - (3) Any employee or former employee of MSPB in his or her individual capacity where the Department of Justice or MSPB has agreed to represent the employee;
 - (4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the MSPB General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.
- b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.
- c. To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.
- d. To the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.
- e. To appropriate agencies and persons when (1) MSPB suspects or has confirmed that there has been a breach of the system of records; (2) MSPB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, MSPB (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with MSPB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

- f. To another Federal agency or Federal entity, when MSPB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for MSPB when MSPB determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to MSPB employees.
- h. To Federal agencies whose employees participate in MSPB special studies surveys, and their subcomponents, where MSPB determines that assistance may be required in any aspect of administering and reporting on the special studies survey.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system of records are stored electronically on 1) MSPB system(s) and/or 2) temporarily on an MSPB vendor's system(s) to facilitate the administration of the survey(s). Access in both locations is limited to a small number of authorized personnel at MSPB and at MSPB's vendor.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by survey case identifier or other personal identifier but are generally only retrieved in this manner leading up to and during the administration of special studies surveys. After the survey is administered, personal identifiers are rarely used to retrieve records or for any other purpose. Instead, post-administration of the survey, records are typically retrieved by a respondent characteristic (such as agency or

demographic group) or response pattern (such as response to a particular survey item or set of items) in a manner that is not intended to identify individual survey respondents. Additionally, post-administration of the survey, records may be retrieved by personal identifier for another research purpose as permitted by law, regulation, or agreement.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

MSPB is currently working to develop a records schedule for the survey responses to submit to NARA for approval. Until a records schedule is in place, the records will be retained as permanent records.

Data provided to MSPB from OPM's EHRI data warehouse under an OPM-MSPB Memorandum of Understanding is retained until no longer needed or when OPM instructs MSPB to destroy data.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical, and physical security measures, such as access controls, mandatory security and privacy training, encryption, multi-factor authentication, security guards, and locked offices.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. Individuals requesting access must comply with MSPB's Privacy Act regulations regarding verification of identity and access to records (5 CFR Part 1205).

CONTESTING RECORD PROCEDURES:

Individuals may request that records about them be amended by writing to the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW, Washington, DC 20419. Individuals requesting amendment must follow MSPB's Privacy

Act regulations regarding verification of identity and amendment to records (5 CFR Part 1205).

NOTIFICATION PROCEDURES:

See Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

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